

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Chief Judge Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Thursday, January 13, 2022**

**Hearing Room**

**5B**

10:00 AM

**8:00-000000**

**Chapter**

**#0.00      Hearings on this calendar will be conducted using ZoomGov video and audio.**

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**ZoomGov meeting number:**                      161 843 9330

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For more information on appearing before Judge Albert by ZoomGov, please see the "Notice of Video and Telephonic Appearance Procedures for Judge Theodor C. Albert's Cases" on the Court's website at: <https://www.cacb.uscourts.gov/judges/honorable-theodor-c-albert> under the "Telephonic Instructions" section.

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- Connect early so that you have time to check in.
- Change your Zoom name to include your calendar number, first initial and last name, and client name (*ex. 5, R. Smith, ABC Corp.*) if appearing by video. This can be done by clicking on "More" and "Rename" from the Participants list or by clicking on the three dots on your video tile.
- Mute your audio to minimize background noise unless and until it is your turn to speak. Consider turning your video off until it is your turn to appear.
- Say your name every time you speak.
- Disconnect from the meeting by clicking "Leave" when you have completed your appearance(s).

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**Chapter**

Docket 0

**Tentative Ruling:**

- NONE LISTED -

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**8:17-13077 Hoag Urgent Care-Tustin, Inc.**

**Chapter 7**

Adv#: 8:17-01241 Hoag Urgent Care - Anaheim Hills, Inc. et al v. Newport Healthcare Center

**#1.00 STATUS CONFERENCE RE: Second Element Of Conversion Remanded By District Court**

Docket 0

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 2-24-22 AT 10:00 A.M.  
PER ORDER ON STIPULATION TO CONTINUE STATUS  
CONFERENCE ENTERED 1-5-22.**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

Hoag Urgent Care-Tustin, Inc.

Represented By  
Ashley M McDow  
Michael T Delaney  
Fahim Farivar  
Teresa C Chow  
Tiffany Payne Geyer  
Shane J Moses

**Defendant(s):**

Newport Healthcare Center LLC

Represented By  
Randye B Soref  
Tanya Behnam

Hoag Memorial Hospital

Represented By  
Randye B Soref  
Tanya Behnam

**Plaintiff(s):**

Hoag Urgent Care - Anaheim Hills,

Represented By  
Ashley M McDow  
Fahim Farivar  
Teresa C Chow

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**CONT... Hoag Urgent Care-Tustin, Inc.**

**Chapter 7**

Elizabeth A Green

Hoag Urgent Care - Huntington

Represented By  
Ashley M McDow  
Fahim Farivar  
Teresa C Chow  
Elizabeth A Green

Hoag Urgent Care - Orange, Inc.

Represented By  
Ashley M McDow  
Fahim Farivar  
Teresa C Chow  
Elizabeth A Green

Hoag Urgent Care-Tustin, Inc.

Represented By  
Ashley M McDow  
Fahim Farivar  
Teresa C Chow  
Elizabeth A Green

Your Neighborhood Urgent Care,

Represented By  
Ashley M McDow  
Teresa C Chow  
Faye C Rasch

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Caroline Djang  
Cathy Ta  
Elizabeth A Green

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**8:18-14265 James G. Caringella**

**Chapter 13**

Adv#: 8:19-01030 Kaplan et al v. Caringella et al

**#2.00 STATUS CONFERENCE RE: Modification of Stay  
(set from denied ost on 12-06-21)**

Docket 0

**Tentative Ruling:**

Tentative for 1/13/22:  
See #3.

<b>Party Information</b>
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**Debtor(s):**

James G. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Defendant(s):**

James G. Caringella

Represented By  
Kelly H. Zinser

Kathleen J. Caringella

Represented By  
Kelly H. Zinser

**Joint Debtor(s):**

Kathleen J. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Plaintiff(s):**

Michael Kaplan

Represented By  
Adam M Greely

Field Time Target & Training LLC

Represented By  
Adam M Greely

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**CONT... James G. Caringella**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:18-14265 James G. Caringella and Kathleen J. Caringella**

**Chapter 13**

**#3.00 Motion for relief from automatic stay ACTION IN NON-BANKRUPTCY FORUM**

**(cont'd from 1-04-22 per order approving stipulation to cont. mtn for relief from stay hearing entered 12-27-21)**

**MICHAEL KAPLAN  
Vs.  
DEBTORS**

Docket 217

**Tentative Ruling:**

Tentative for 1/13/22:

The court is inclined to modify the stay of the adversary proceeding consistent with the request by Kaplan. Doing so would give effect to both the original relief from stay order issued on June 12, 2019 directing the parties to pursue these matters to completion, and the state court determinations that these matters are subject to the arbitration agreement set forth in section 12.8 of the Field Time Operating Agreement. Although it would seem that the circumstances have changed, they do not seem to have done so in a way that would or should override the relief from stay order or the state court determinations that the remaining matters are subject to arbitration. Whether these matters are core is of little consequence since the court can, in its discretion, abstain as it has indicated it would prefer to do. Debtors argue that sending the matter to arbitration has another disadvantage, which is that the arbitrator is not obliged to follow the law. However, the arbitrator would certainly be obliged to make certain factual findings before deciding on an award. Those findings could form the basis for a non-dischargeability action in this court without the need to re-litigate the facts. And, of course, if the arbitration goes in favor of Debtors, then there likely will be little to litigate in this court.

The moving papers in this motion read very much like a summary



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**CONT... James G. Caringella and Kathleen J. Caringella Chapter 13**

judgment motion, rather than a relief from stay. The court is not disposed, nor required to determine at this time whether the remaining claims are derivative, or whether Kaplan ultimately has standing to bring those remaining claims. The court is also not required to make any findings of fact at this juncture, such as, for example, whether Kaplan has engaged in bad faith litigation tactics, though that seems to be what the parties want. The parties contracted to arbitration and likely should be held to it as the state court has already determined. The bankruptcy proceeding did not vitiate that provision of the Field Time Operating Agreement. That such provision is expensive or inconvenient to Debtor is not really a reason for the bankruptcy court to remake the agreement.

However, the court notes that the main points and authorities in support of the motion for relief from stay appeared only in the Reply, rather than in the motion itself. Debtor has objected on this basis. As the objection has due process implications, the court is inclined to grant a brief continuance so that Debtor has a full and fair opportunity to respond.

<b>Party Information</b>
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**Debtor(s):**

James G. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Joint Debtor(s):**

Kathleen J. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Movant(s):**

Michael Kaplan

Represented By  
Adam M Greely

Michael Kaplan

Represented By  
Adam M Greely

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**CONT... James G. Caringella and Kathleen J. Caringella**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

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**8:19-12480 Guy S. Griffithe**

**Chapter 7**

Adv#: 8:19-01199 Samec v. Guy Griffithe Et.Al

**#4.00 STATUS CONFERENCE RE: Plaintiff's Motion To Dismiss, Debtors Bankruptcy  
Or, In The Alternative, Stay Adversary Proceeding  
(cont'd from 9-30-21)**

Docket 77

**Tentative Ruling:**

Tentative for 1/13/22:

According to ¶¶G of the Status Report, a summary judgment is in the offing. Accordingly, a pretrial conference will be scheduled June 23, 2022 @ 10:00AM with the expectation that an MSJ will be filed and heard in meantime. If the motion is not successful the parties are expected to have timely filed a Joint Pretrial Stipulation.

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Tentative for 9/30/21:

This is a continued hearing on Plaintiff's motion to dismiss the bankruptcy case or, in the alternative, stay the adversary proceeding. The court issued its tentative decision on this matter in connection with the July 29, 2021 hearing, which it incorporates herein by reference. Relatively little has changed since that tentative decision except that now Plaintiff reports some efforts made to prepare and file a joint status report, and complains of ongoing refusal by Defendant to cooperate with discovery. Defendant replies, but the court is left unclear on what the current status on requested discovery might be, whether a motion to compel is warranted and/or how that relates to whether some relief should be issued in this motion. As to the dismissal portion of the motion, Plaintiff, who appears in pro se, misunderstands some basics on procedure. His grounds for dismissal require the court to accept as fact many of his allegations. But these remain largely unsupported by any evidence (affidavits?) and are , apparently, denied by the defendant. The court cannot proceed that way. That's why we have trials, so that disputed facts can be resolved by evidence actually admitted.

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**Guy S. Griffith**

**Chapter 7**

The request for a stay is a somewhat closer question. There are five factors a court may weigh when determining whether a stay of proceedings is warranted: “(1) the interest of the plaintiff in proceeding expeditiously with the civil action as balanced against the prejudice to the plaintiffs if delay is forthcoming; (2) the burden on the defendants; (3) the convenience to the courts; (4) the interest of persons not parties to the civil litigation; and (5) the public interest.” *Southwest Marine, Inc. v. Triple A Machine Shop, Inc.*, 720 F. Supp. 805, 809 (N.D. Cal. 1989).

Some of the *Southwest Marine* grounds for evaluating a stay may be relevant. The first factor is largely focused on the interests of the plaintiff in avoiding delay. But here the Plaintiff is the one requesting the stay. The third factor, convenience to the court, is not compelling here as the court has no particular burden in scheduling later rather than sooner; the court is more concerned about a just result. The second factor, burden on the defendant, is left unclear because it appears that several other similar matters are also pending so the advantage (or disadvantage) in determining this one perhaps ahead of the others is left unexplained. The interest of nonparties is likewise unclear, but the papers suggest that certain decisions from other courts are expected in the near future, which might have some effect, such as the matter before Judge Carter in the SEC matter. The fifth factor, public interest, does not seem implicated or at least no one has articulated any public interest. Defendant does raise the procedural argument that this motion was apparently filed a day late after expiration of the deadline for filing pretrial motions. But, in the interests of justice, the court is aware and concerned about Plaintiff's *pro se* status and consequently is reluctant to strictly enforce such a relatively small violation of the deadline absent more compelling reasons. Significantly, Plaintiff reports recent efforts to procure counsel, and that, if successful, could be a game changer. So, the better part of valor is to grant at least one stay for a period of about six months. Further stays should not be expected and procurement of counsel by Plaintiff in meantime should be regarded a prerequisite.

*Stay proceedings for a period of six months pending a rescheduled status conference. Either side may request relaxation of the stay and/or lifting (in whole or part) of the discovery/motion deadlines for cause shown by separate motion.*

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**CONT...      Guy S. Griffithe**

**Chapter 7**

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Tentative for 7/29/21:

This is Plaintiff, Joseph Samec's ("Plaintiff") motion to dismiss debtor, Guy Griffithe's ("Debtor") bankruptcy or, in the alternative, to stay this adversary proceeding. Plaintiff is proceeding *pro se*, and thus, the motion to dismiss Debtor's bankruptcy case is somewhat scattered and unfocused. It chronicles Plaintiff's alleged unfortunate dealings with Debtor and ultimately concludes that Debtor should have his case dismissed, have any discharge denied, or have certain debts Plaintiff argues were incurred through fraud or some other malfeasance found non dischargeable pursuant to various subsections of 11 U.S.C. §727 and 11 U.S.C. §523(a).

Debtor argues that pursuant to the scheduling order of September 3, 2020, the last day to file pre-trial motions was June 21, 2021. This motion was filed on June 22, 2021, rendering it untimely, at least as to the adversary proceeding. The motion could be denied on that procedural basis alone. The motion should also be denied on procedural grounds as it apparently seeks a type of summary judgment as to Debtor's culpability pursuant to the allegations in Plaintiff's complaint. Plaintiff misunderstands. Unproven and disputed allegations cannot be the basis for dismissing a Debtor's bankruptcy case, as Plaintiff would apparently have this court do. Thus, the motion should be denied on that basis as well.

As to the portion requesting a temporary stay or abstention, Debtor asserts that this court already heard and denied Plaintiff's prior motion for a temporary stay. However, the court did so largely because, at that time (June of 2020), there were other related cases going on in other courts, but this case was not very far along. More than a year has passed since then. Still, it is difficult to discern from the motion where the other cases stand at this point. There has been no new status report filed.

There are 5 factors for a court to weigh when determining whether a stay of proceedings is warranted: "(1) the interest of the plaintiff in proceeding expeditiously with the civil action as balanced against the prejudice to the plaintiffs if delay; (2) the burden on the defendants; (3) the convenience to the

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**CONT... Guy S. Griffithe**

**Chapter 7**

courts; (4) the interest of persons not parties to the civil litigation; and (5) the public interest." *Southwest Marine, Inc. v. Triple a Machine Shop, Inc.*, 720 F. Supp. 805, 809 (N.D. Cal. 1989).

Here, Debtor points out that the analysis in Plaintiff's motion regarding the of above factors is essentially a copy/paste job of the analysis taken from a similar motion in a related adversary proceeding. See *Steven Bagot v. Guy S. Griffithe*, Case No. 8:19-bk-12480-TA, Adv. No. 8:19-ap-01201-TA (Dkt. # 29). It does not assist the court in determining whether abstention is appropriate at this juncture. Therefore, as it is Plaintiff's burden to demonstrate that he is entitled to the relief sought, that burden is not carried, and the motion will be denied absent a better explanation than found in the motion.

*Deny.*

<b>Party Information</b>
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**Debtor(s):**

Guy S. Griffithe

Represented By  
Bert Briones  
Laurie Schiff

**Defendant(s):**

Guy Griffithe Et.Al

Represented By  
Laurie Schiff  
Ralph C Shelton II

**Plaintiff(s):**

Joseph Samec

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

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**8:19-11521 Jee Hyuk Shin**

**Chapter 7**

Adv#: 8:20-01045 Marshack v. Shin et al

**#5.00 STATUS CONFERENCE RE: Complaint For: I. Turnover 11 U.S.C. Sec. 542 & 543; II. Avoidance 11 U.S.C. Sec. 544; III. Avoidance 11 U.S.C. Sec. 548; IV. Liability 11 U.S.C. Sec. 550; V. Avoidance 11 U.S.C. Sec. 549; VI. Sale Of Property 11 U.S.C. Sec 363(h); VII. Avoidance 11 U.S.C. Sec. 547  
[another summons issued on 12-30-20 with the same s/c date per Amna]  
[another summons issued on 1-11-21 with same s/c date per Amna]  
(cont'd from 12-02-21 per order approving stip. to cont. s/c entered 12-01-21)**

Docket 1

**Tentative Ruling:**

Tentative for 1/13/22:

Why no status report? It appears that some of the case is settled and or a default can be pursued.

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Tentative for 12/10/20:

Continue to February 25, 2021 @ 10:00 a.m.

Appearance: optional

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Tentative for 9/3/20:

It appears that the case is not yet at issue with response of certain parties still awaited. Continue to Nov. 12 @ 10:00 a.m. Plaintiff to give notice to all parties who have or will respond.

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Tentative for 6/25/20:

Continue approximately 60 days to allow service to be effected.

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**CONT... Jee Hyuk Shin**

**Chapter 7**

Please note: In light of concerns about COVID-19/Coronavirus and attempts to implement physical distancing, and pursuant to GO 20-02, telephonic appearances are mandatory on all matters. Telephonic appearances may be arranged with CourtCall by calling (866) 582-6878.

Please be advised that CourtCall has announced reduced fees for attorneys to use CourtCall and free access for parties who do not have an attorney – pro se or self-represented litigants through August 31, 2020.

The Parties are reminded to have all relevant filings/information easily accessible during the hearing.

<b>Party Information</b>
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**Debtor(s):**

Jee Hyuk Shin	Pro Se
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**Defendant(s):**

Jee Hyuk Shin	Pro Se
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GODDO SAVE	Pro Se
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Jae Shin	Pro Se
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Bang Shin	Pro Se
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Insook Shin	Pro Se
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Seafresh Restaurant	Pro Se
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Jeemin Shin	Pro Se
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Mini Million Corporation	Pro Se
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Theodore Ebel	Pro Se
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Mojerim, Inc.	Pro Se
---------------	--------

**Plaintiff(s):**

Richard A Marshack

Represented By  
Anerio V Altman



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**CONT... Jee Hyuk Shin**

**Chapter 7**

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Anerio V Altman

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**8:21-10863 Nalu's Group, Inc.**

**Chapter 11**

Adv#: 8:21-01041 Nalus, Inc. et al v. Cabrera

**#6.00 STATUS CONFERENCE RE: Notice of Removal  
(cont'd from 10-28-21)**

Docket 1

**Tentative Ruling:**

Tentative for 1/13/22:

In the status conference report reference is made to a dispositive motion to resolve the question of third party releases in bankruptcy plans. When can such a motion be filed. Can this be heard within 60 days?

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Tentative for 10/28/21:

See #7.

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Tentative for 8/26/21:

This is a straightforward state law claim which ought normally to be decided in Superior Court, but there is a wrinkle in that the confirmed plan reportedly has a third party release provision, allegedly agreed to by the affected class. That issue should be decided in this court via Rule 56 motion. The court requires briefing on the enforceability of such provisions in Ninth Circuit. Continue status conference about 90 days for such a motion to be briefed and heard.

**Party Information**

**Debtor(s):**

Nalu's Group, Inc.

Represented By  
Michael Jones  
Sara Tidd

**Defendant(s):**

Faustino Perez Cabrera

Pro Se

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**CONT... Nalu's Group, Inc.**

**Chapter 11**

**Plaintiff(s):**

Nalus, Inc.

Represented By  
Michael Jones

Anthony Truong

Represented By  
Michael Jones

**Trustee(s):**

Robert Paul Goe (TR)

Pro Se

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**8:19-12480 Guy S. Griffithe**

**Chapter 7**

Adv#: 8:19-01199 Samec v. Guy Griffithe Et.Al

**#7.00 PRE-TRIAL CONFERENCE RE: Amended Adversary Complaint of  
Nondischargeability and Exception from Discharge of Debts for Case KC069896  
Samec vs. Griffithe et.al.  
(set from s/c hrg held on 6-25-20)  
(cont'd from 9-30-21)**

Docket 47

**Tentative Ruling:**

Tentative for 1/13/22:  
See #4.

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Tentative for 9/30/21:  
See #12.

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Tentative for 7/29/21:  
See #6.

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Tentative for 6/25/20:  
No status conference report. Was this to be continued ? See #4

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Tentative for 4/29/20:  
See #17.

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**CONT...      Guy S. Griffithe**

**Chapter 7**

Tentative for 3/12/20:  
See #7.

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Tentative for 1/16/20:  
Same as #1. Appearance not required.

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Tentative for 1/9/20:  
Continue to January 16, 2020 at 11:00AM. Appearance optional.

<b>Party Information</b>
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**Debtor(s):**

Guy S. Griffithe

Represented By  
Bert Briones

**Defendant(s):**

Guy Griffithe Et.Al

Pro Se

**Plaintiff(s):**

Joseph Samec

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court  
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11:00 AM

:  
Adv#: 8:98-01650      Laguardia v. Tamura

**Chapter 0**

**#8.00**      Motion For Civil Contempt And To Order Brookhaven Pet Hospital, LLC's  
Attendance At Third-Party Examination  
**(cont'd from 12-02-21)**

Docket      397

**Tentative Ruling:**

Tentative for 1/13/22:  
Status?

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Tentative for 12/2/21:  
Continue to January 13, 2022 at 10:00AM.

Appearance: required

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Tentative for 10/14/21:  
Continuance in view of recent declaration of Mr. Petersen.

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Tentative for 9/23/21:  
Service was apparently delayed (September 16?) so it would seem a  
continuance as to Brookhaven is prudent.

<b>Party Information</b>
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**Defendant(s):**

Dayle Momi Tamura

Represented By  
Stephen D Johnson

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**Chapter 0**

**Movant(s):**

James Laguardia

Represented By  
Eric Ridley  
Gordon A Petersen

**Plaintiff(s):**

James Laguardia

Represented By  
Eric Ridley  
Gordon A Petersen

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**Chapter 0**

Adv#: 8:98-01650      Laguardia v. Tamura

**#9.00**      Laguardia's Motion For Contempt And For Order To Compel Attendance At Debtor Dayle M. Tamura Examination, Request For Monetary Sanctions Of \$1,790.00

Docket      438

**Tentative Ruling:**

Tentative for 1/13/22:  
Grant. Any previous stay on collection removed.

<b>Party Information</b>
--------------------------

**Defendant(s):**

Dayle Momi Tamura

Represented By  
Stephen D Johnson

**Plaintiff(s):**

James Laguardia

Represented By  
Eric Ridley  
Gordon A Petersen



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2:00 PM

**8:18-14265 James G. Caringella**

**Chapter 13**

Adv#: 8:19-01030 Kaplan et al v. Caringella et al

**#10.00 Debtor Kathleen J. Caringella's Motion Of For Summary Judgment**

Docket 30

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3-10-22 AT 2:00 P.M.  
PER ORDER DENYING APPLICATION FOR ORDER SETTING  
HEARING ON SHORTEN NOTICE ENTERED 12-06-21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

James G. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Defendant(s):**

Kathleen J. Caringella

Represented By  
Kelly H. Zinser

James G. Caringella

Represented By  
Kelly H. Zinser

**Joint Debtor(s):**

Kathleen J. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Plaintiff(s):**

Michael Kaplan

Represented By  
Adam M Greely

Field Time Target & Training LLC

Represented By  
Adam M Greely

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Chief Judge Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Thursday, January 13, 2022**

**Hearing Room**

**5B**

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2:00 PM

**CONT... James G. Caringella**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Chief Judge Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Thursday, January 13, 2022**

**Hearing Room**

**5B**

2:00 PM

**8:18-14265 James G. Caringella**

**Chapter 13**

Adv#: 8:19-01030 Kaplan et al v. Caringella et al

**#11.00 Debtor James G. Caringella's Motion For Summary Judgment**

Docket 33

**\*\*\* VACATED \*\*\* REASON: CONTINUED TO 3-10-22 AT 2:00 P.M.  
PER ORDER DENYING APPLICATION FOR ORDER SETTING  
HEARING ON SHORTENED NOTICE ENTERED 12-06-21**

**Tentative Ruling:**

- NONE LISTED -

<b>Party Information</b>
--------------------------

**Debtor(s):**

James G. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Defendant(s):**

Kathleen J. Caringella

Represented By  
Kelly H. Zinser

James G. Caringella

Represented By  
Kelly H. Zinser

**Joint Debtor(s):**

Kathleen J. Caringella

Represented By  
Kelly H. Zinser  
Rick Augustini

**Plaintiff(s):**

Michael Kaplan

Represented By  
Adam M Greely

Field Time Target & Training LLC

Represented By  
Adam M Greely

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Chief Judge Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Thursday, January 13, 2022**

**Hearing Room**

**5B**

---

2:00 PM

**CONT... James G. Caringella**

**Chapter 13**

**Trustee(s):**

Amrane (SA) Cohen (TR)

Pro Se